

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2271 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI
and
Hon'ble MR.JUSTICE J.R.VORA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SMT. PUNIBEN RAMJIBHAI DHAPA (KHARVA)

Versus

ISHA TAIYAB SAMA & ORS

Appearance:

MR M.S. SHAH for the Appellants

MR V.P. NANAVALI for Respondent No.3

CORAM : MR.JUSTICE N.G.NANDI
and
MR.JUSTICE J.R.VORA

Date of decision: 02/04/2002

ORAL JUDGEMENT (Per : MR.JUSTICE N.G.NANDI)
Heard.

1. This Appeal under Section 173 of the Motor Vehicles Act (hereinafter referred to as the "Act") is directed against the order passed under Section 163A of the Act in Motor Accident Claim Petition No. 143/99 before the Motor Accident Claims Tribunal (Main), Kutch at Bhuj, whereby the appellants - claimants have been directed to be paid Rs.2,76,500/- because of the accidental death of deceased Ramjibhai Dayabhai Dhapa. The deceased husband of appellant No.1 and father of appellant No.2.

2. It is stated by Mr. Mehul Shah, learned Advocate for the appellants that as far as application under Section 163A of the Act is concerned, the same be permitted to be withdrawn as the appellants propose to proceed with Application under Section 166 of the Act.

3. The appellants are permitted to withdraw the application under Section 163A of the Act as the appellants propose to proceed with Application under Section 166 of the Act before the Tribunal.

4. In view of the above, the present Appeal is liable to be dismissed having become infructuous for the reasons of the withdrawal of the application under Section 163A of the Act and the impugned order becoming non-existent. The appellants shall abide by the direction given by the Tribunal, namely, filing of the undertaking as mentioned in the operative portion of the impugned order.

5. In view of the above, the Appeal stands dismissed as infructuous at the admission stage.

(N.G. Nandi, J.) (J.R. Vora, J.)
p.n.nair